

Message Text

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CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03 NSAE-00

NSC-07 PA-04 PRS-01 SP-03 SS-20 FEA-02 CEQ-02 COA-02

COME-00 EB-11 EPA-04 IO-14 NSF-04 SCI-06 ACDA-19

AEC-11 AGR-20 DOTE-00 FMC-04 INT-08 JUSE-00 OMB-01

OIC-04 TRSE-00 DRC-01 /257 W
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R 131741Z AUG 74

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UNCLAS SECTION 1 OF 2 CARACAS 7735

FROM US DEL LOS

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E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LOS- UNCLASSIFIED SUMMARY REPORT: WEEK
ENDING AUGUST 8.

1. SUMMARY. COMMITTEE I(DEEP SEABEDS) CONTINUED GENERAL
DEBATE ON REGIME AND READING OF TEXTS WITH FOCUS
ON ARTICLE 9 (WHO MAY EXPLOIT THE AREA) AND ECONOMIC IMPLI-
CATIONS OF DEEP SEABED MINING. IN COMMITTEE II
(STRAITS, TERRITORIAL SEA, ECONOMIC ZONE, ETC), NEARLY
100 SPEAKERS WERE HEARD ON EXCLUSIVE ECONOMIC ZONE ITEM.
DISCUSSION WAS ALSO COMPLETED ON LISTS OF SUBJECTS AND ISSUES
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ITEMS 3 AND LARGELY COMPLETED ON ITESM 9 AND 10. U.S.

TABLED FORMAL ARTICLES ON ECONOMIC ZONE AND CONTINENTAL SHELF. COMMITTEE III (POLLUTION AND SCIENTIFIC RESEARCH) CONTINUED IN FORMAL AND INFORMAL SESSIONS TO CONSIDER PROPOSALS AND TEXTS ON POLLUTION WITH INDIA AND CANADA INTRODUCING DRAFT ARTICLES ON A "ZONAL APPROACH". WITH THREE WEEKS REMAINING OF CONFERENCE, COMMITTEES ARE PROCEEDING THROUGH AGENDA ITEMS. END SUMMARY.

2. COMMITTEE I (DEEP SEABED REGIME)- A. KEY ITEMS ON AGENDA OF COMMITTEE I HAVE BEEN THE REGIME AND MACHINERY, ECONOMIC IMPLICATIONS OF MINING AND CONDITIONS OF EXPLOITATION AND RELATED ASPECTS OF THE QUESTION OF THE NATURE AND EXTENT OF CONTROLS TO BE EXERCISED BY THE AUTHORITY. INITIAL STEVENSON STATEMENT IN COMMITTEE I STRESSED THAT KEY ISSUE BEFORE COMMITTEE WAS THE QUESTION OF CONTROLS, OR RIGHTS AND DUTIES OF THE AUTHORITY WITH RESPECT TO EXPLOITATION. HOWEVER, TO DATE, COMMITTEE HAS FOCUSED ON EXPLOITATION SYSTEM, PARTICULARLY ARTICLE 9 ON "WHO MAY EXPLOIT THE AREA" AND ECONOMIC ASPECTS. IT IS HOPED THAT THE KEY ISSUE OF NATURE OF CONTROLS AND CONDITIONS OF EXPLOITATION WILL BE ADDRESSED IN FINAL WEEKS OF CONFERENCE. U.S. HAS CONTINUED TO URGE IMPORTANCE OF THIS ASPECT OF SEABED REGIME.

B. GENERAL TRENDS: DURING COURSE OF COMMITTEE WORK FOLLOWING TRENDS EMERGE:

C. LARGE NUMBER OF DEVELOPING COUNTRY DELEGATIONS CONTINUED TO STRESS DESIRABILITY OF DIRECT EXPLOITATION BY AUTHORITY, BUT EMPHASIZED NEED TO PROVIDE FOR PROTECTION OF INVESTMENTS IN ORDER TO ATTRACT COMPANIES POSSESSING TECHNOLOGY AND CAPITAL IN EARLY STAGES OF AUTHORITY'S OPERATIONS;

D. MANY DEVELOPING COUNTRY DELEGATIONS POINTED OUT IMPORTANCE OF PROTECTING ECONOMIES OF LAND-BASED DEVELOPING COUNTRY PRODUCERS FROM POTENTIALLY WHICH INDICATED DEVELOPING CONSUMING COUNTRY APPREHENSION;

E. MANY EUROPEAN, AFRICAN AND ASIAN DELEGATIONS ENDORSED SOME MIXED SYSTEM FOR EXPLOITATION WHICH WOULD INCLUDE BOTH LICENSING AND DIRECT EXPLOITATION BY AUTHORITY,
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ALTHOUGH MAJORITY OF DEVELOPING COUNTRIES ENVISIONED EVENTUAL PHASING OUT OF LICENSING OPERATIONS;

F. LARGE NUMBER OF DELEGATIONS ENDORSED NEED FOR ESTABLISHING MACHINERY FOR COMPULSORY SETTLEMENT OF DISPUTES.

G. ARTICLE 9, "WHO MAY EXPLOIT THE AREA". DURING DEBATE ON EXPLOITATION SYSTEM ARTICLE, GROUP OF 77 SUBMITTED NEW

ALTERNATIVE TEXT WHICH GAVE AUTHORITY POWER TO DIRECTLY EXPLOIT BUT ALSO PROVIDED FOR VARIETY OF CONTRACTUAL RELATIONSHIPS BETWEEN AUTHORITY AND NATURAL OR JURIDICAL PERSONS. IN ADDITION, JAMAICA INTRODUCED NEW TEXT WHICH HEAVILY EMPHASIZED AUTHORITY'S OBLIGATION TO PERMIT EXPLOITATION ONLY IN ACCORDANCE WITH BASIC REGULATORY CONDITIONS IN TREATY. HOWEVER, PRESURE FOR GROUP OF 77 SOLIDARITY RESULTED IN PLACEMENT OF JAMAICAN PROPOSAL IN FOOTNOTE. NEW ALTERNATIVE TO ARTICLE 9 INTRODUCED BY U.S. UTILIZED NEUTRAL TERM OF "LEGAL ARRANGEMENT" RATHER THAN LICENSES, SERVICE CONTRACTS OR JOINT VENTURES TO DESCRIBE CONTRACTUAL RELATIONSHIP BETWEEN AUTHORITY AND OPERATOR, AND STRESSED NECESSITY OF DEVELOPING RULES AND REGULATIONS BOTH IN TREATY AND THROUGH LATER RULE-MAKING PROCEDURE. SEVERAL LDC LEADERS IN C-I HAVE INDICATED DESIRE TO MOVE DIRECTLY TO SERIOUS NEGOTIATION OF ARTICLE 9, BUT U.S. AND OTHER INDUSTRIALIZED COUNTRIES HAVE INSISTED THAT ARTICLE 9 CAN ONLY BE CONSIDERED IN CONNECTION WITH REGULATORY PROVISIONS.

H. ECONOMIC IMPLICATIONS. C-I HAS HELD SEVERAL SESSIONS OF FORMAL DEBATE AND TWO INFORMAL SEMINARS ON SUBJECT OF ECONOMIC IMPLICATIONS FOR LDC LAND-BASED PRODUCERS OF SEABED PRODUCTION. UNCTAD AND UN STUDIES HAVE BEEN DISCUSSED IN DETAIL AND UNCERTAINTY OF AVAILABLE DATA HAS CLEARLY BEEN RECOGNIZED BY MOST DELS. MOST RECENT STATEMENTS OF KEY DEVELOPING COUNTRY REPS HAVE IMPLIED DISCREET SHIFT IN POSITION TOWARDS INCLUDING SAFEGUARD PROVISIONS IN TREATY WHICH WOULD EMPOWER AUTHORITY TO TAKE ACTION WHEN AND IF PROBLEM OCCURS RATHER THAN TAKING IMMEDIATE ACTION TO PREVENT DETERIORATION OF PRICES FOR LAND-BASED PRODUCERS.

I. U.S. DELIVERED LONG STATEMENT ON CONDITIONS OF EXPLOITATION, EMPHASIZING NEED FOR PRECISE PROVISIONS GUARANTEEING

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SOUND AND NON-DISCRIMINATORY INVESTMENT CONDITIONS.

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ACTION DLOS-07

INFO OCT-01 ARA-16 ISO-00 AF-10 EA-11 EUR-25 NEA-14 RSC-01

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FROM US DEL LOS

3. COMMITTEE II - A. ECONOMIC ZONE: COMMITTEE II
COMPLETED DEBATE ON ITEM 6 (EXCLUSIVE ECONOMIC ZONE BEYOND THE
TERRITORIAL SEA) WITH NEARLY 100 COUNTRIES STATING THEIR
POSITIONS. MAIN TRENDS WHICH HAVE EMERGED FROM PROPOSALS
AND DEBATE WILL BE REFLECTED IN INFORMAL WORKING
PAPER NO. 4. WORKING PAPER WILL CONTAIN ALTERNATIVE
FORMULATIONS IN TREATY LANGUAGE WHERE SEVERAL MAIN TRENDS
HAVE BEEN INDICATED. THERE SEEMS TO BE VERY WIDESPREAD
SUPPORT FOR 200-MILE ZONE WITH FREEDOM OF NAVIGATION,
OVERFLIGHT AND LAYING OF SUBMARINE CABLES AND PIPELINES
BEYOND 12 MILES. THREE OVERALL THEMES HAVE BEEN EVIDENCED
IN DISCUSSION ON NATURE OF JURISDICTION IN ZONE: 1)
STATES FAVORING EXTENSIVE (QUASI-TERRITORIAL) RIGHTS OVER ALL
RESOURCES, MARINE POLLUTION, SCIENTIFIC RESEARCH, AND OTHER
MATTERS WITH RESIDUAL SOVEREIGNTY IN COASTAL STATE;
2) STATES SUPPORTING COASTAL STATE SOVEREIGN OR EXCLUSIVE
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RIGHTS OVER RESOURCES WITH SPECIFICALLY DEFINED RIGHTS
AND DUTIES WITH RESPECT OTHER MATTERS, MAINTAINING BALANCE
BETWEEN COASTAL AND NON-COASTAL STATE JURISDICTION;
3) STATES ADVOCATING COASTAL STATE SOVEREIGN OR
EXCLUSIVE RIGHTS OVER RESOURCES, BUT NOT RIGHT OVER OTHER
MATTERS.

B. U.S. ARTICLES: U.S. ARTICLES HAVE BEEN WELL RECEIVED

AND MEETINGS ARE PLANNED WITH KEY DEVELOPING COUNTRY LEADERS.

ARTICLES ARE IN THREE SECTIONS: I. ECONOMIC ZONE, II. FISHING, AND III. CONTINENTAL SHELF.

(1) ECONOMIC ZONE SECTION PROVIDES FOR 200-MILE LIMIT, WITH COASTAL STATE SOVEREIGN AND EXCLUSIVE RIGHTS OVER RESOURCES, EXCLUSIVE RIGHTS OVER DRILLING AND ECONOMIC INSTALLATIONS, AND OTHER RIGHTS AND DUTIES REGARDING SCIENTIFIC RESEARCH AND POLLUTION TO BE SPECIFIED, COASTAL STATE ENVIRONMENTAL DUTIES WITH RESPECT TO INSTALLATIONS AND SEABED ACTIVITIES, AND WILL ALL STATES ENJOYING FREEDOM OF NAVIGATION AND OTHER RIGHTS RECOGNIZED BY INTERNATIONAL LAW.

(2) FISHING SECTION PROVIDES FOR EXCLUSIVE COASTAL STATE RIGHT TO REGULATE FISHING IN ECONOMIC ZONE, SUBJECT TO DUTY TO CONSERVE AND ENSURE FULL UTILIZATION OF FISH STOCKS. ARTICLE ON ANADROMOUS SPECIES PROHIBITS FISHING FOR SUCH SPECIES BEYOND TERRITORIAL SEA EXCEPT AS AUTHORIZED BY STATE OF ORIGIN. ARTICLE ON HIGHLY MIGRATORY SPECIES PROVIDES FOR COASTAL STATE REGULATION IN ZONE AND FLAG STATE REGULATION OUTSIDE ZONE IN ACCORDANCE WITH REGULATIONS OF INTERNATIONAL ORGANIZATION; MEMBERSHIP IN ORGANIZATION IS MANDATORY; COASTAL STATE WILL RECEIVE FEES FOR FISH CAUGHT IN ZONE, ARRANGEMENTS BETWEEN ORGANIZATION AND COASTAL STATE TO BE MADE FOR THIS PURPOSE; ORGANIZATION'S ALLOCATION OF FISH TO TAKE INTO ACCOUNT SPECIAL INTERESTS OF COASTAL STATE IN ZONE.

(3) CONTINENTAL SHELF SECTION PROVIDES FOR COASTAL STATE SOVEREIGN RIGHT OVER EXPLORATION AND EXPLOITATION OF CONTINENTAL SHELF RESOURCES, AND DEFINES CONTINENTAL SHELF AS EXTENDING TO LIMIT OF ECONOMIC ZONE, OR BEYOND TO OUTER LIMIT OF CONTINENTAL MARGIN (TO BE PRECISELY DEFINED). COASTAL STATE DUTIES TO RESPECT INTEGRITY OF FOREIGN INVESTMENT AND TO MAKE SOME PAYMENTS FROM MINERAL RESOURCES EXPLOITATION FOR INTERNATIONAL COMMUNITY PURPOSES, PARTICULARLY FOR DEVELOPING COUNTRIES, FROM SEA SEAWARD OF 12 MILES OR 200 METERS DEPTH, WHICHEVER IS FARTHER SEAWARD.

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C. OTHER ITEMS: COMMITTEE II ALSO COMPLETED DEBATE ON ITEM 7 (COASTAL STATE PREFERENTIAL RIGHTS OR OTHER NON-EXCLUSIVE JURISDICTION OVER RESOURCES BEYOND THE TERRITORIAL SEA), ITEM 8 (HIGH SEAS) AND ITEM 3 (CONTINUOUS ZONE). DISCUSSION WAS ALSO NEARLY COMPLETED ON ITEM 9 (LAND-LOCKED COUNTRIES) AND ITEM 10 (RIGHTS AND INTERESTS OF SHELF-LOCKED COUNTRIES AND STATES WITH NARROW SHELVES OR SHORT COASTLINES). IN CONNECTION WITH ITEMS 9 AND 10, "GEOGRAPHICALLY DISADVANTAGED" STATES STRESSED RIGHT OF FREE ACCESS TO SEA AND SHARING IN RESOURCES OF ECONOMIC ZONE 'USUALLY LIMITED TO DEMANDS FOR PARTICIPATION IN FISHERIES ON REGIONAL BASIS). IN INFORMAL SESSION, COMMITTEE II DISCUSSED WORKING PAPER NO. 3 (CONTINENTAL SHELF). VARIOUS DELEGATIONS OFFERED NUMBER OF

SUGGESTIONS WHICH WILL BE TAKEN INTO ACCOUNT BY THE
CHAIRMAN AND BUREAU IN REVISING WORKING PAPER ON SHELF.

4. COMMITTEE III (POLLUTION AND SCIENTIFIC RESEARCH).

A. POLLUTION: IN COURSE OF FORMAL AND INFORMAL DISCUSSION ON
ASPECT OF POLLUTION PROBLEM THERE APPEARS TO BE DEVELOPING
GREATER UNDERSTANDING OF PARTICULAR COMPLEXITIES OF VESSEL
POLLUTION ISSUE AND A MOVEMENT IN DIRECTION OF NOT ENABLING COASTAL
STATE TO IMPOSE HIGHER CONSTRUCTION STANDARDS IN A ZONE,
ALTHOUGH ZONAL APPROACH STILL FAVORED BY MANY STATES RE OTHER
ASPECTS OF POLLUTION ISSUES. SECOND TREND HAS BEEN PUSH IN
COMMITTEE LED BY INDIA AND BRAZIL FOR TREATY TEXTS WHICH WOULD GIVE
DEVELOPING COUNTRIES SPECIAL TREATMENT IN THE FORMULATION AND
IMPLEMENTATION OF ENVIRONMENTAL STANDARDS, THE SO-CALLED
"DOULBE STANDARD" APPROACH. NEGOTIATIONS ON POLLUTION HAVE
BEEN PROCEEDING ON THREE LEVELS: INFORMAL COMMITTEE SESSIONS
FOR GENERAL DEBATE AND INTRODUCTION OF PROPOSALS, INFORMAL
SESSIONS TO CONSIDER SPECIFIC ISSUES AND TEXTS, AND IN SMALL
NEGOTIATING AND DRAFTING GROUP TO RESOLVE DIFFERENCES AND
PRODUCE AGREED TEXTS. MAJOR NEW PROPOSAL IN FORMAL
SESSION WAS DRAFT ARTICLES ON A ZONAL APPROACH SPONSORED
BY TEN STATES INCLUDING INDIA AND CANADA. INFORMAL SESSIONS
HAVE CONSIDERED PROPOSED AMENDMENTS TO THE SEABED
COMMITTEE'S AGREED AND ALTERNATIVE TEXTS AND HAVE BEGUN
DISCUSSIONS IN TURN ON ITEMS ON STANDARDS AND ENFORCEMENT.
DISCUSSION ON ITEM ON POLLUTION FROM LAND-BASED ACTIVITIES
FROM EXPLOITATION OF CONTINENTAL SHELF RESOURCES HAVE
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BEEN COMPLETED AND A SMALL DRAFTING GROUP HAS PRODUCED SOME
AGREED AND ALTERNATIVE TEXTS ON BASIC AND PARTICULAR
OBLIGATIONS TO PREVENT POLLUTION.

B. SCIENTIFIC RESEARCH: IN COURSE OF THREE MEETINGS THIS WEEK,
INFORMAL WORKING GROUP DISCUSSED AND ACCEPTED PROPOSED FORMAT
OF CHAIRMAN METTERNICK CALLING FOR FOCUS OF REMAINING SESSIONS TO
BE ON GENERAL PRINCIPLES AND MAJOR TRENDS. FOLLOWING
ACCEPTANCE OF PLAN, METTERNICK PRESENTED WORKING GROUP WITH SETS
OF GENERAL PRINCIPLES AND TRENDS.
BY END OF WEEK WORKING GROUP HAD "ELABORATED" PRINCIPLES AND
SET STAGE FOR KEY DISCUSSIONS ON TRENDS IN REMAINING TWO
WEEKS. THROUGHOUT SESSIONS METTERNICK URGED STATES WITH SIMILAR
PROPOSALS TO COMBINE THEM INTO A SINGLE PROPOSAL TO MAKE TRENDS
DISCUSSION MORE FRUITFUL. IN FORMAL SESSION OF COMMITTEE III,
SECRETARIAT PRESENTED PAPER ON ACQUISITION AND TRANSFER OF
TECHNOLOGY AND NIGERIA INTRODUCED FIRST PROPOSAL
TO DEAL WITH SUBJECT. IN ADDITION, TRINIDAD AND TOBAGO INTRO-
DUCED DRAFT ARTICLES ON SCIENTIFIC RESEARCH CALLING FOR
CONSENT REGIME.
STEVENSON

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